

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

RICHARD L. HUNTER, SR.

Plaintiff,

v.

Case No. 3:23-cv-1257

VOLTYX LLC, & ARCLINE INVESTMENTS
MANAGEMENT
EPS-NASS Parent, Inc. Defendants.

**PLAINTIFF'S RESPONSE TO DEFENDANTS' RESPONSE AND MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT**

EPS NASS Parent, Inc., ("EPS NASS") by and through undersigned counsel, submitted this Response Memorandum in Opposition to Plaintiff's Motion for Entry of Default Judgment pursuant to Rule 4 of the Federal Rules of Civil Procedure. In support, EPS NASS cites Plaintiff's improper summons and improper service to an incorrectly named Defendant. EPS NASS requests this Court order Plaintiff issue summons and service pursuant to Fed. R. Civ. P. 4 on the correctly named defendants in this matter within a date certain. EPS NASS additionally requests 21 days to file responsive pleadings upon receipt of proper service.

I. PROCEDURAL HISTORY

Plaintiff filed the instant action, Case No. 3:23-cv-1257, on November 29, 2023, against Voltyx and Arcline Investments Management Corporation, EPS-NASS Parent, Inc. ("Defendants"). (ECF 1) In his Complaint, Plaintiff cites discrimination claims arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, 42 U.S.C. 1981, and the Age Discrimination

Employment Act. On November 29, 2023, the Court issued a summons to Voltyx LLC + Arcline Investments Management c/o Northwest Registered Agent, 116 Agnes Rd #206, Knoxville, Case 3:23-cv-01257 Document 9 Filed 03/15/24 Page 1 of 5 Page ID #: 36

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Tennessee, 37919. (ECF 2) On December 11, 2023, Plaintiff filed a Return of Service on Voltyx, stating he mailed the packet to 116 Agnes Rd. #200, Knoxville, Tennessee, 37919. (ECF 4) On January 3, 2024, the Court ordered Plaintiff to serve process to Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. (ECF 6) Plaintiff thereafter filed an undated Summons, not issued by the Clerk, and an Affidavit of Service on Defendant EPS-NASS d/b/a Voltyx, dated February 1, 2024.1 (ECF 7) On March 5, 2024, Plaintiff filed the present Motion for Entry of Default Judgment. (ECF 8) EPS NASS asserts the improper summons, failure to properly serve EPS NASS, and incorrectly named Defendant as grounds for opposition to this Motion for Entry of Default. EPS NASS requests Plaintiff provide proper summons and service to the correctly named EPS NASS Parent, Inc., after which EPS NASS requests an additional 21 days to file responsive pleadings.

Rebuttal:

Plaintiff filed an updated Summons and complaint that was stamped and received by the Clerk of the Court. Furthermore the motion for Default Judgement was also filed and acknowledged receipt by the Clerk of the court and date stamped.

Plaintiff sought every means possible to legally serve the Agent of Record for the defendant by mailing the initial summons and complaint to what he believed was the Corporate office of Voltyx, LLC Arcline Investment Management at **9 Lea Avenue , Nashville, Tennessee 37210**. This is where the Plaintiff worked and this is where the CEO, Mark Day, The General Counsel , The Training Directors and Arcline Executive met regularly for meetings and this is where domestic training took place. See attached Exhibit where the notice was sent Certified Return Receipt Requested. On December 1, 2023. The documents were returned unclaimed.

Furthermore the initial summons and complaint sent to the Registered Agent @ 116 Agnes Rd. #200, Knoxville, Tennessee, 37919. Was signed for. This address was given to the Plaintiff over the phone by a representative with the Secretary of States office of Tennessee.

A legal summons and complaint was sent to the Registered Agent EPS-NASS C/O Ct System located @ 300 Montvue Road , Knoxville, Tennessee 37919 and received on January 31, 2023 by a Service of Process Company the receipt was via an Affidavit of Service with the Knox County Seal. The Defendants Never responded to this legal Summons and Complaint.

Efforts to contact the defendant was to no avail to verify the address of the Corporate Office . By calling the number on their website **(855) 459-4377** a person answers and refuse to disclose the mailing address or disclose any names of where to send suit papers. They simply ask to take a message and someone will call you back. Also, on the defendant's website there is no address listed for the Corporate office. <https://www.voltyx.com/> The defendants did everything possible to avoid service. Finally the plaintiff received his W-2 tax documents and realized that these documents were sent from **EPS-NASS Parent Inc. 58 Progress Parkway, Maryland Heights, MO 63043.**

At that point the Plaintiff sent the summons and complaint to this address via certified mail and received a response from the defendants attorneys.

II. LEGAL ARGUMENT

The Defendants were legally and properly served and refused to respond. The Clerk of the Court verified the Service by a stamped and dated copy filed with the court.

The Proposed Corporate office at 9 Lea Avenue, Nashville, Tennessee was closed without notice and or the defendants leaving a forwarding address with the United States Postal Service.

CONCLUSION

Wherefore, based upon the foregoing, The Plaintiff respectfully requests the court grant Plaintiff's request for entry of default judgment against EPS NASS Parent, Inc. Voltyx, LLC and Arcline Investment Management , Inc.

DATED: March 18, 2024.

Respectfully submitted,

Richard Lewis Hunter, Sr.

108 McGavock Cirle Franklin, Tennessee 37064 adjusternet@comcast.net

Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March, 2024, a copy of the foregoing Memorandum in Opposition to Defendants's Motion in Opposition to Plaintiff's Motion for Default Judgment was emailed to the Defendants Attorneys and will filed with the Clerk of the United States District Court.

GORDON REES SCULLY MANSUKHANI, LLP /s/
Desireé J. C. Goff Heather Gwinn, BPR 25931
Desireé J. C. Goff, BPR 31136

Gordon Rees Scully Mansukhani, LLP
4031 Aspen Grove Dr. Suite 290 Franklin, TN 37067
Telephone: (615) 772-9000
hgwinn@grsm.com dgoff@grsm.com
Counsel for Defendant EPS NASS Parent, Inc.

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AFFIDAVIT OF SERVICE

Richard Lewis Hunter, Sr.

Plaintiff(s)

Vs.

US District Court for Davidson County, TN

Court

EPS- NASS d/b/a Voltyx-Arcline

Defendant(s) Investment Management

3:23-CV-1257

Case Number

I, Will Johnson, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service:

I served:

EPS-NASS d/b/a Voltyx - Arcline Investment Management

14 March 2024

Date

2:35 pm

Time

At home address listed

At place of employment listed

Other location

At: 300 Montview Rd Knoxville TN 37919

service c/o CT Corporation System,
registered agent

Non-Service:

After due search, careful inquiry, and diligent attempts at the address(es) listed, I have been unable to effect process on:

For the following reason(s):

Moved, left no forwarding address

No response after multiple attempts, no contact

Evading service

Bankruptcy

Deceased

Other _____

I, Will Johnson, certify, under penalty of perjury, that my statements contained within the foregoing affidavit are true and correct to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Subscribed and sworn to before me on: 15 March 2024

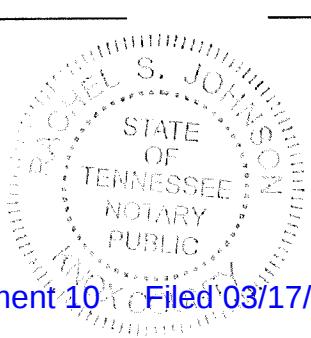
Date

Reiner Jep

Notary Public

My commission expires: 4/5/25

Will Johnson
Process Server Signature



William Johnson
16 Emory Place #201
Knoxville, TN 37917
(865) 399-3115

SENDER: COMPLETE THIS SECTION**COMPLETE THIS SECTION ON DELIVERY**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Voltyx LLC
4001 Melvin
Great American
Blvd, Franklin, TN 37020*

9590 9402 8506 3186 5254 45

1. Article Number (Transfer from service label)
9589 0710 5270 0986 0820 04

S Form 3811, July 2020 PSN 7550-02-000-9053

A. Signature
X

B. Received by (Printed Name) _____

C. Date of Delivery
all Restricted Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

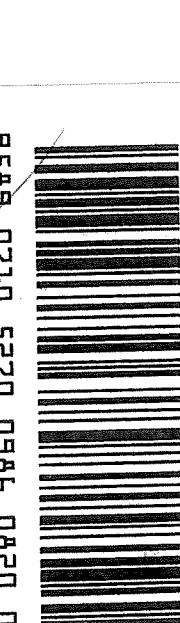
3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

CERTIFIED MAIL**Retail****RDC 99**

\$8.80
R2303S100455-04

U.S. POSTAGE PAID
FCM LETTER
FRANKLIN, TN 37
NOV 29, 2023

**RDC 99****RDC 99**

\$8.80
R2303S100455-04

U.S. POSTAGE PAID
FCM LETTER
FRANKLIN, TN 37
NOV 29, 2023

RETURN RECEIPT
REQUESTED

RETURN TO SENDER
UNCLAIMED
REFUSED

JL 11201-23

MAILING
INFORMATION

3722 DE 1

2022/21/22

RETURN TO SENDER

UNCLAIMED

REFUSED

SENDER: COMPLETE THIS SECTION**COMPLETE THIS SECTION ON DELIVERY**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Mark Dyer C
EPS - MASS. Archive
58 Progress Blv
Malden MA 02148*

Article Number (Transfer from service label)

9590 9402 8732 3310 2137 84

S Form 3811, July 2020 PSN 7530-02-000-9053

3. Service Type
(Over \$500)
all Restricted Delivery**RECIPIENT: COMPLETE THIS SECTION****Complete items 1, 2, and 3.**

Print your name and address on the reverse so that we can return the card to you.

Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

*Mark Dyer C
EPS - MASS. Archive
58 Progress Blv
Malden MA 02148*

Article Number (Transfer from service label)

9590 9402 8732 3310 2137 84

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

Mark Dyer Agent

B. Received by (Printed Name)

Stacie Simmons

C. Date of Delivery

12/17/23

D. Is delivery address different from item 1? Yes No

Domestic Re.

A. Signature	<i>Mark Dyer</i>	C. Date of
<input checked="" type="checkbox"/>		<input type="checkbox"/> 12/17/23
B. Received by (Printed Name)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail® Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery
- Ad
- Ag